

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**A. G. ADJUSTMENTS, LTD.,
APPELLANT**

vs.

**KIMBERLY JORGES, ET UX,
RESPONDENTS**

DOCKET NUMBER WD74153

DATE: JUNE 5, 2012

Appeal from:

The Circuit Court of Platte County, Missouri
The Honorable Owens L. Hull, Jr., Judge

Appellate Judges:

Division Two: Victor C. Howard P.J., Mark D. Pfeiffer and Karen King Mitchell, JJ.

Attorneys:

James E. Klenc, for Appellant

Jennifer M. Snider, for Respondents

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

A. G. ADJUSTMENTS, LTD., APPELLANT
v.
KIMBERLY JORGES, ET UX, RESPONDENTS

WD74153

Platte County, Missouri

Before Division Two: Victor C. Howard, P.J., Mark D. Pfeiffer and Karen King Mitchell, JJ.

A.G. Adjustments filed a petition against the guarantors of a loan, alleging that it had made a demand for payment and the guarantors had failed to make any payments on the loan. In the first paragraph of its petition, A.G. Adjustments alleged that it was a corporation duly organized and existing under and by virtue of law. In their answer, the guarantors stated that they were without sufficient knowledge to admit the allegation in the first paragraph of the petition and therefore denied the allegation. The court entered a judgment in favor of the guarantors, finding that A.G. Adjustments had failed to prove its corporate existence. A.G. Adjustments appeals.

REVERSED AND REMANDED.

Division Two holds:

Missouri law requires a defendant to plead a specific negative averment of corporate capacity in order to raise an issue regarding the plaintiff's corporate capacity. A denial of a plaintiff's corporate capacity based on a lack of sufficient knowledge is inadequate to raise the issue. Where the guarantors' denial of the corporate existence of A.G. Adjustments was based on a lack of sufficient knowledge, the guarantors failed to raise the issue of the corporate existence of A.G. Adjustments. Therefore, the corporate existence of A.G. Adjustments is deemed admitted, and the trial court erred in entered judgment in favor of the guarantors on the basis that A.G. Adjustments failed to prove its corporate existence. The judgment is reversed, and the case is remanded for further proceedings.

Opinion by: Victor C. Howard, Judge

Date: June 5, 2012

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